

Application No. : 10/004,281
Amdt. Dated : February 21, 2006
Reply To O.A. Of : December 22, 2005

REMARKS

The Applicant thanks the Examiner for the careful and thoughtful examination of the present application. By way of summary, Claims 21-36 were pending in this application. Claims 21-36 remain pending for consideration.

Information Disclosure Statement

The Applicant submits herewith an Information Disclosure Statement providing three (3) references which are referenced as Exhibits A – C in this After-Final Amendment. While the Applicant does not believe that these references will affect the patentability of the pending claims, the Applicant respectfully requests the consideration of the same.

Rejection Of Claims 21-36 Under 35 U.S.C. § 112, ¶ 1, Written Description

The Office Action rejected Claims 21-36 under 35 U.S.C. § 112, ¶ 1, as allegedly failing to comply with the written description requirement. Specifically, the Office Action asserted that the recitation in the independent claims of a “network of publicly located dynamic displays” is not recited or explained in the present specification.

M.P.E.P. § 2163 comments on the written description requirement as follows:

To satisfy the written description requirement, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention. . . . The issue raised in [many] cases is most often phrased as whether the original application provides ‘adequate support’ for the claims at issue or whether the material . . . incorporates ‘new matter’ in violation of 35 U.S.C. [§] 132. . . . While there is no [word-for-word] requirement, newly added claim limitations must be supported in the spec through express, implicit or inherent disclosure. . . .

Patents and printed publications in the art should be relied upon to determine . . . what the level of knowledge and skill is in the art.

The Applicant respectfully submits that the recitation of a “network of publicly located dynamic displays” in independent Claims 21 and 34 is supported in the originally filed specification. For example, the present specification includes description

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of an exemplary media management system having a web based interface (Medial Plan Profile of Figure 2). An advertiser (e.g., Ford Motor Company) uses the system to enter in various filtering information. Once entered, the system uses the filtering information to filter through a determined inventory of media availability (e.g., places where Ford's ad can run), to find that availability that matches the filtering information. Entry of the filtering information is disclosed in at least Figures 3-23. One of the filters that the advertiser (Ford) can set is that of desired media type (e.g., TV, Radio, etc.). As shown in Figure 4, the advertiser (Ford) can choose from types, for example, "Television," "Radio," "Print," "Outdoor," "Online," and "**Dynamic**." Many of the foregoing media types are self explanatory. As shown in Figure 4, media type "Dynamic" includes, for example, narrowcast information to "Elevator News," "Fitness Equipment," and "Interactive Directory."

Elevator News

As discussed in Exhibit A, an article originally published in Real Estate Magazine on March 8, 2000, an artisan would recognize that companies such as the Elevator News Network were already installing and providing new inventories of media availability (places where Ford's ad can run) including displays in elevators.

[A] unique narrowcast network that delivers, through the Internet, up-to-the-minute new and information to the business community via 12.1-inch custom-designed slimline video monitors that are mounted in the elevator [sic] cabs of high-rise office buildings. See ¶ 2.

Fitness Equipment

As discussed in Exhibit B, a patent application filed on May 15, 2000, an artisan would recognize that companies such as Clubcom, Inc.'s were pursuing new inventories of media availability (more places where Ford's ad can run) including displays associated with fitness equipment.

The present invention allows information, such as audio, video and/or the like, to be generated and/or delivered to a user, such as a user of an exercise equipment in a gym or club environment, preferably based on the demographics of the user. . . . The information generated and/or delivered to the user may include information such as, training videos, educational programs, movies, digital music, advertisements, information provided

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over cable TV, information provided over satellite TV and/or other like information.

FIG. 1 shows a schematic of a preferred embodiment local information network 10. Local network 10 is preferably located at an establishment, such as a club or gym providing the desired information to its patrons. In the preferred embodiment, local network 10 comprises a server 11. Server 11 is preferably a local server, i.e. a server located at the club or gym. The local server is preferably a PC based computer. In the preferred embodiment, local server 11 is connected to a remote central server, via a communications network 12, such as a communications network capable of TCP/IP communication. The remote central server is preferably under the control of a network operator and is located at a site selected by the network operator. Local server 11 is also preferably connected to other sources and receives information from such other sources, such as cable TV, satellite TV and/or the like, via communications network 13. Communications network 13 may provide information to the club server from such other sources, either in analog or digital format. See Fig. 1, Col. 3:61-4:25.

Interactive Directory

The present inventor is involved in a company called Interactive Media Networks (IMN), seeking to commercialize aspects of the present invention, including generating inventories of interactive directory type media. As shown in the present specification, this type of "Dynamic" media and this company are the chosen selection for the remainder of the specification. See Figure 8, "MEDIUM: Dynamic Interactive Directory," "SELLERS: Interactive Media, "and reference to "IMN." Thus, many of the remaining filter selections in Figures 9-23 provide insight into the type of displays, including public places of Figures 10-13. Moreover, as discussed in Exhibit C, a brochure distributed to customers on November 14, 2000, an artisan would recognize inventors of "fully interactive digital directories" including "42-inch" displays placed in shopping centers.

Based on at least the foregoing, an artisan would understand at the time of the invention that the media type "Dynamic" disclosed with reference to Figure 4, includes networks of publicly located dynamic displays, such as those at least found in elevators, fitness equipment, malls, hotels, stores, office properties, and the like. Thus, the Applicant asserts that the recitation of a "network of publicly located dynamic displays"

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in Claims 21 and 34 is adequately disclosed and supported in the originally filed specification, and the rejections based on 35 U.S.C. § 112, ¶ 1, should be withdrawn.

Rejection Of Claims 21-25, 34 and 36 Under 35 U.S.C. § 102 and

Rejection Of Claims 26-33 and 35 Under 35 U.S.C. § 103

The Office Action rejected Claims 21-25, 34 and 36 under 35 U.S.C. § 102 as being anticipated by U.S. patent no. 5,724,521 to Dedrick. The Applicant respectfully traverses this rejection because the Dedrick patent fails to identically teach every element of the claim. See M.P.E.P. § 2131 (stating that in order to anticipate a claim, a prior art reference must identically teach every element of the claim).

The Office Action rejected Claims 26-33 and 35 under 35 U.S.C. § 103 as being unpatentable over the Dedrick patent in view of application publication no. 2004/0111319 to Matsumoto et al. (the Matsumoto application). The Applicant respectfully traverses this rejection because the Dedrick patent, alone or in combination with the Matsumoto application, fails to teach or suggest the elements of the claims. See M.P.E.P. § 2143 (stating that in order to establish a *prima facie* case of obviousness for a claim, the prior art references must teach or suggest all the claim limitations).

As discussed in the foregoing, the present application discloses an exemplary media management system, where an advertiser (e.g., Ford Motor Company) uses the disclosed exemplary system to (1) enter in various filtering information (e.g., demographics of the desired audience) that are used to reduce the total inventory of media availability (e.g., places where Ford's ad can run) to that inventory that matches the filtering information, and (2) receive dynamic pricing based on the filtered inventory.

Independent Claim 21 recites:

Claim 21 A method for selling advertising media inventory on a network of publicly-located dynamic displays, the method comprising:
 electronically receiving target consumer demographics from an advertiser;

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comparing the target consumer demographics to demographic information for available advertising media inventory on the network of publicly-located dynamic displays;

identifying a subset of available inventory based at least in part on the comparison; and

providing pricing for the subset of available inventory to the advertiser, wherein **the pricing changes according to a degree of targetability represented by the subset of available inventory compared to the available advertising media inventory.**

Independent Claim 34 recites:

Claim 34 An advertising media inventory sales system comprising an online computer interface configured to:

receive target consumer demographics from an advertiser;

compare the target consumer demographics to demographic information for available advertising media inventory;

identify a subset of available inventory based at least in part on the comparison; and

provide pricing for the subset of available inventory to the advertiser.

Thus, the claimed system sets the pricing based on an amount or degree of targeted inventory (e.g., places where Ford's ad can run), or the amount or degree of targeted inventory as compared to the total amount of inventory.

In contrast, the Dedrick patent discloses an advertising system where the advertiser (e.g., Ford) associates demographics and acceptable pricing with their own ad. The ad is then pushed to PC's 12 through clearing house servers 20 and metering servers 14. If and when a demographic match is made, the ad runs. Thus, the Dedrick patent discloses an advertiser-determined pricing model that cannot predict media inventory, but rather determines media inventory at the time of a match. For example, a user may search on "Bicycle," and Dedrick would associate advertisements from advertisers who had chosen demographics of people interested in bicycles and who had, presumably, offered the highest price for those demographics. Whether a user would ever enter "Bicycle" was not known before the actual entry, and therefore, Dedrick does not identically teach or suggest identification of a subset of available

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inventory and does not identically teach or suggest a dynamic pricing model based on the inventory.

The combination of the Matsumoto application, regardless of the propriety of the combination itself, also fails to teach or suggest the claimed media management system.

Accordingly, the Applicant respectfully requests that Claims 21 and 34 be allowed.

Claims 22-33, and 35-36, which respectively depend from independent Claims 21, and 34, are believed to be patentable for the same reasons articulated above and because of the additional features recited therein. Therefore, the Applicant respectfully requests that Claims 22-33, and 35-36 be allowed.

Request For Telephone Interview

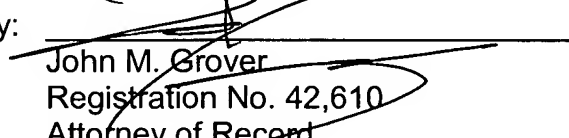
In view of the forgoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain to be resolved, the Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner. The Applicant's attorney can be reached at (949) 721-2942 or at the number listed below.

In addition, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: February 21, 2006

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Attachment(s)
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